

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CALEB S. HERNANDEZ,	:
	:
Plaintiff,	:
	:
-against-	:
	:
LARRY MILLER, et al.,	:
	:
Defendants.	:
	:
-----X	

22-CV-6964 (VSB)

ORDER

VERNON S. BRODERICK, United States District Judge:

There is a telephonic hearing on Plaintiff's motion for emergency injunctive relief, (Doc. 26), scheduled for 11:00 a.m. on September 28, 2022. It is hereby:

ORDERED that the parties prepare to discuss the following questions at the hearing:

1. Can Plaintiff provide any case law that holds that I am authorized to grant injunctive relief to remedy claims that are not pled in the Amended Complaint? *Cf. De Beers Consol. Mines v. United States*, 325 U.S. 212, 220 (1945) (denying motion for preliminary injunction because the alleged conduct "deals with a matter lying wholly outside the issues in the suit" and a preliminary injunction is only appropriate "to grant intermediate relief of the same character as that which may be granted finally"); *Al-Bukhari v. Dep't of Correction*, 720 F. App'x 655, 656 (2d Cir. 2018) (affirming denial of preliminary injunction motion because the relief sought dealt with a matter not pled in the complaint); *Purugganan v. AFC Franchising, LLC*, No. 3:20-CV-00360 (KAD), 2021 WL 268884, at *2 (D. Conn. Jan. 27, 2021) (denying motion for preliminary injunction without prejudice because the underlying claim was "not contained in the operative

complaint”).

2. Since the basis of Plaintiff’s claims for injunctive relief is that an account belonging to CD Acquisitions was accessed without authority, and CD Acquisitions is not a party to this action, how can Plaintiff establish standing for the relief sought in his motion for a preliminary injunction?
3. How can Plaintiff demonstrate with specificity, beyond his assertion that the “information concerned is being transferred over computers and servers in many different states by the perpetrator(s), is confidential,” (Doc. 26-14 at 7), that he will be irreparably harmed absent injunctive relief? *See JBR, Inc. v. Keurig Green Mountain, Inc.*, 618 F. App’x 31, 34 (2d Cir. 2015) (“[T]he ‘burden of proof and persuasion rests squarely’ on the party moving for a preliminary injunction to show that irreparable harm is likely.” (quoting *Grand River Enter. Six Nations, Ltd. v. Pryor*, 481 F.3d 60, 66 (2d Cir. 2007))).

Relatedly, how can Plaintiff establish that the alleged injury is not remote or speculative? *See Dexter 345 Inc. v. Cuomo*, 663 F.3d 59, 63 (2d Cir. 2011) (“[A]n irreparable injury is an injury that is not remote or speculative but actual and imminent, [] for which a monetary award cannot be adequate compensation.”).
4. What steps had been taken to protect confidential information on CD Acquisitions?
5. What specific material was accessed, copied, and/or downloaded?
6. Why are monetary damages an inadequate remedy in this case? *See Dexter 345 Inc.*, 663 F.3d at 63.
7. What is the citizenship of Caleb S. Hernandez, Larry Miller, and Eric Eisbrenner?
8. What is the citizenship of Certa Dose, Inc.?
9. Is Certa Dose, Inc. still a going concern?

10. Who are the members of CD Acquisitions LLC?

11. What is the citizenship of each of the members of CD Acquisitions LLC?

SO ORDERED.

Dated: September 26, 2022
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick", written over a horizontal line.

Vernon S. Broderick
United States District Judge